

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

**IN RE:
JIMMIE C. GILLESPIE
WILLIAM W GILLESPIE
DEBTORS**

**CASE NO. 10-30942
CHAPTER 11**

**MOTION FOR RELIEF FROM AUTOMATIC STAY OR IN THE
ALTERNATIVE ADEQUATE PROTECTION
{No Protest Motion Pursuant to 11 U.S.C. § 362}**

COMES NOW Seterus, Inc. as servicer for Federal National Mortgage Association (hereinafter “Movant”), a secured creditor in the above-captioned case, by and through counsel, Brock & Scott, PLLC, and moves this Court to enter an order granting its request for relief from the automatic stay imposed by 11 U.S.C. § 362(a) on the following grounds:

1. On April 6, 2010, the Debtors, Jimmie C. Gillespie and William W Gillespie, filed a petition with the Bankruptcy Court for the Western District of North Carolina under Chapter 11 of Title 11 of the United States Code.

2. This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. §§ 1334 and 157.

3. The Debtors hold title to the real property (hereinafter “Collateral”) described in that Deed of Trust recorded in the Gaston County Register of Deeds in Book 4055 at Page 812 and recorded on August 17, 2004 (hereinafter “Deed of Trust”) with an address of 803 Robinson Road, Gastonia, North Carolina 28056. A copy of the Deed of Trust is attached hereto and is incorporated herein as Exhibit “A”.

4. Movant holds a Promissory Note secured by the Deed of Trust from the Debtors in the original principal amount of \$56,250.00 and dated August 17, 2004 (hereinafter “Note”). A copy of the Note is attached hereto and incorporated herein as Exhibit “B”.

5. The Gaston County Tax Assessor lists the value of the Collateral at \$68,164.00.

6. Upon information and belief, the approximate payoff due and owing to Movant as of April 12, 2012 is \$60,102.60.

7. The Debtors have defaulted in the mortgage payments to be made pursuant to the confirmed Chapter 11 Plan. Upon information and belief, the amount of default, exclusive of fees and costs, is as follows:

6	payments @	\$	292.25	\$	1,753.50
	(11/11 - 4/12)				
	Total Delinquency			\$	1,753.50

8. As a result, Movant lacks adequate protection of its interest in the Collateral. By virtue of such lack of protection, good cause exists to lift the automatic stay imposed hereunder. Otherwise, Movant will suffer irreparable harm with respect to Movant's interest in the Collateral.

9. Pursuant to §362(e) and local Bankruptcy Rule 9013-1(e)(6), Movant has noticed any interested party that it must file and serve any response, including an objection, within fourteen (14) days from service of the Notice of Opportunity for Hearing attached hereto and incorporated herein by reference, or to otherwise appear at the time and location stated therein to object to this motion. In the event that an interested party does not request a hearing, the Court may decide the matter on the record before it.

WHEREFORE, Movant prays the Court as follows:

1. Modify the Automatic Stay of Section 362(a) of the Bankruptcy Code to permit Movant to enforce its security interest in the Collateral.

2. Modify Rule 4001(a)(3) of the Bankruptcy Code so that it is not applicable in this case and so Movant may immediately enforce and implement this order granting relief from the automatic stay.

3. As an alternative to the relief prayed for above, grant adequate protection to Movant for its interest in the Collateral.

4. Movant specifically requests permission to communicate with the Debtor(s) and Debtor(s)' counsel to the extent necessary to comply with applicable nonbankruptcy law.

5. Grant Movant reasonable costs and attorney fees incurred in connection with this proceeding; and,

6. Grant Movant such other and further relief as the Court deems just and proper.

This 23rd day of April, 2012.

/s/ Matthew L. Underwood
Matthew L. Underwood (N.C. Bar No. 37106)
Sean M. Corcoran (N.C. Bar No. 33387)
Daria A. Barrett (N.C. Bar No. 42188)
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CERTIFICATE OF SERVICE

The undersigned hereby certifies under penalty of perjury that he/she is over eighteen (18) years of age and that the MOTION FOR RELIEF FROM AUTOMATIC STAY and the NOTICE OF MOTION AND OPPORTUNITY FOR HEARING in the above captioned case were this day served upon the below named persons by mailing, postage prepaid, first class mail a copy of such instrument to each person(s), parties, and/or counsel at the addresses shown below:

Jimmie C. Gillespie
William W Gillespie, Jr
PO Box 550442
Gastonia, NC 28055

Bank of America
4060 Ogletown/Stanton Rd
Newark, DE 19713

Mr. Robert Lewis, Jr
The Lewis Law Firm, P.A.
803 C East Main Street
Havelock, NC 28532

Citi
PO Box 6241
Sioux Falls, SD 57117

Mr. Verna Carol Bash-Flowers
Attorney Verna Bash-Flowers
P.O. Box 927
Lowell, NC 28098

First Citizens Bank
PO Box 29
Columbia, SC 29202

U.S. Bankruptcy Administrator
402 W. Trade Street
Suite 200
Charlotte, NC 28202

Capital 1 Bank
Attention: C/O TSYS
Management
PO Box 5155
Norcross, GA 30091

Countrywide Home Lending
Attention: Bankruptcy
SV-314B
PO Box 5170
Simi Valley, CA 93062

First Citizens Bank
100 E Tryon Rd
Raleigh, NC 27603

Wells Fargo Home Mortgage
3476 Stateview Road
Fort Mill, SC 29715

Banks of America
4131 Piedmont Parkway
Greensboro, NC 27410

Chase
PO Box 15298
Wilmington, DE 19850

Discover Fin. Services, LLC.
PO Box 15316
Wilmington, De 19850

South Carolina
Department of Revenue
Sales Tax Return
Columbia, SC 29214

Winchester Ocean Blue Development
4710 Oleander Dr, Suite 1
Myrtle Beach, SC 29577

This 23rd day of April, 2012.

Brock and Scott, PLLC

/s/ Suzy Richter
Suzy Richter
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**NOTICE OF MOTION AND OPPORTUNITY FOR HEARING
{No Protest Motion Pursuant to 11 U.S.C. § 362}**

**TO THE DEBTOR, DEBTOR'S ATTORNEY, TRUSTEE AND ALL PARTIES IN
INTEREST**

THIS NOTICE IS HEREBY GIVEN of a Motion for Relief from Automatic Stay filed simultaneously herewith in the above-captioned case, a copy of which is attached to herein, and;

NOTICE IS FURTHER GIVEN that this motion may be allowed pursuant to U.S.C. § 362(e) without a hearing or further notice provided no response and request for a hearing is made by the parties in interest in writing to the **U.S. Bankruptcy Court Clerk of Court at Post Office Box 34189, Charlotte, North Carolina, 28234-4189** within FOURTEEN (14) DAYS from the date of this notice, and;

NOTICE IS FURTHER GIVEN that if a response and request for a hearing is filed by a party in interest named herein, in writing within the time indicated, a hearing will be conducted in the **Charlotte Division of the U.S. Bankruptcy Court Western District of North Carolina, located 401 West Trade Street, Charlotte, North Carolina, 28202 on June 27, 2011 at 9:30 am.** If no response for a hearing is timely filed, this Court may rule on the Motion exparte without further notice. Any party requesting a hearing shall appear at the hearing in support of such an objection or may be assessed with costs of Court.

This 23rd day of April, 2012.

Brock and Scott, PLLC

/s/ Matthew L. Underwood
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